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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT VARELA,

Case No. 1:13-cv-01512-LJO-SKO

Plaintiff,

**FINDINGS AND RECOMMENDATIONS
THAT PLAINTIFF'S COMPLAINT BE
DISMISSED WITHOUT PREJUDICE**

v.

OBJECTIONS DUE: 14 DAYS

SELMA POLICE DEPARTMENT, et al.,

(Doc. 1)

Defendants.

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On September 18, 2013, Plaintiff Robert Varela ("Plaintiff"), representing himself in propria persona, filed a complaint against Defendants Selma Police Department, Danny Barcellos, Maria Cuevas, Google Street View, Yahoo.com, Sprint Cellular, facebook.com, and spoofapp.com. (Doc. 1.) The complaint sets forth Plaintiff's address as the Fresno County Jail. (Doc. 1.) Plaintiff filed a motion to proceed in forma pauperis, which was granted on February 4, 2014, and the order was served on Plaintiff by mail. On February 7, 2014, the order was returned as "undeliverable," and indicated Plaintiff was "Not In Custody."

For the reasons set forth below, the Court RECOMMENDS that Plaintiff's complaint be DISMISSED without prejudice pursuant to the Local Rules of the United States District Court, Eastern District of California, Rule 183(b).

1 **II. DISCUSSION**

2 Local Rule 183(b) provides:

3 A party appearing in propria persona shall keep the Court and opposing
4 parties advised as to his or her current address. If mail directed to a plaintiff in
5 propria persona by the Clerk is returned by the U.S. Postal Service, and if such
6 plaintiff fails to notify the Court and opposing parties within sixty-three (63) days
7 thereafter of a current address, the Court may dismiss the action without prejudice
8 for failure to prosecute.

9 Plaintiff has not provided the Court with a current address, and more than sixty-three (63)
10 days have passed since mail from the Court was first returned by the U.S. Postal Service as
11 undeliverable. The Court has no way to contact Plaintiff; the address set forth in the complaint is
12 not current. As such, pursuant to Local Rule 183(b), "the Court may dismiss the action without
13 prejudice for failure to prosecute."

14 **III. CONCLUSION AND RECOMMENDATION**

15 Accordingly, the Court HEREBY RECOMMENDS that the complaint be DISMISSED
16 without prejudice pursuant to Local Rule 183(b) due to Plaintiff's failure to provide the Court with
17 a current, valid address and the case be administratively closed.

18 These findings and recommendations are submitted to the district judge assigned to this
19 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 304. Within fourteen
20 (14) days of service of this recommendation, any party may file written objections to these
21 findings and recommendations with the Court and serve a copy on all parties. Such a document
22 should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The
23 district judge will review the magistrate judge's findings and recommendations pursuant to 28
24 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections within the specified
25 time may waive the right to appeal the district judge's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th
26 Cir. 1991).

27 IT IS SO ORDERED.

28 Dated: April 22, 2014

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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